



Note: 272/16

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations in New York presents its compliments to the Office of Legal Affairs of the United Nations and has the honour to refer to the Office of Legal Affairs' Note LA/COD/50/2 dated 31 December 2015 and General Assembly resolution 70/114 of 14 December 2015, entitled "Criminal accountability of United Nations officials and experts on mission".

With apologies for the delay, the Permanent Mission encloses information on UK legislation regarding criminal accountability of UK nationals serving as United Nations officials or experts on mission.

The United Kingdom Mission to the United Nations in New York avails itself of this opportunity to renew to the Office of Legal Affairs the assurances of its highest consideration.



United Kingdom Mission to the United Nations
24 June 2016

**UK information regarding criminal accountability
of UK nationals who are UN officials and experts on mission**

UK legislation establishing jurisdiction

The United Kingdom refers to General Assembly resolution 70/114 of December 2015 and recalls the request for states to provide information on national provisions which establish jurisdiction over their nationals, whenever they serve as **United Nations officials or experts on mission**, in relation to crimes as known in their existing national criminal laws, particularly those of a serious nature.

There are three distinct criminal law jurisdictions in the United Kingdom: England and Wales; Northern Ireland; and Scotland. Legislation passed in Westminster on matters reserved to it under the devolution arrangements applies to the whole of the United Kingdom. In addition the devolved administrations can agree that Westminster legislates on devolved matters for the devolved parts of the United Kingdom. The criminal law in the United Kingdom on a particular type of offending can therefore be unified (for the United Kingdom as a whole); dual (for England & Wales and either one of the devolved parts with one of them making their own law) or tripartite (with each part of the United Kingdom legislating separately). Offending overseas on the part of any UK national, be they resident in England and Wales, Northern Ireland or Scotland, will be dealt with by the most appropriate jurisdiction; so for example a Scottish citizen committing an offence that is subject to extra-territorial jurisdiction in both the law of England and Wales and Scotland could be tried in either place, but will be tried in the venue that is most appropriate as determined by the relevant authorities in consultation with each other.

The United Kingdom has not enacted any criminal legislation which applies *specifically* or *only* to its nationals when serving in their capacity as United Nations officials or experts on mission. However, the United Kingdom has enacted legislation which provides for extra-territorial jurisdiction over a number of offences committed by its nationals abroad. Such legislation applies to United Kingdom nationals serving as United Nations officials or experts on mission, subject to any relevant immunity they may enjoy as a matter of international law, as reflected in domestic law.

In addition, the United Kingdom has enacted legislation which provides for extra-territorial jurisdiction over specified classes of persons, namely, members of the British armed forces or anyone else who is for the time being subject to service law and Crown Servants acting or purporting to act in the course of their employment.

The United Kingdom has a longstanding policy of applying legislation extra-territorially only to the most serious offences (including those in relation to which we have a treaty obligation to extend jurisdiction extra-territorially). There are challenges in securing convictions in relation to activities conducted abroad which relate to the reliability and admissibility of evidence collected overseas.

The attached Table A provides references to legislation which provides for extra-territorial jurisdiction over its nationals generally in respect of the most serious crimes, including murder and manslaughter, slavery and sexual offences against children. The table is not a comprehensive list of extra-territorial crimes over which the United Kingdom has assumed jurisdiction.

The attached Table B provides references to legislation which provides for extra-territorial jurisdiction over British armed forces or anyone else who is for the time being subject to

Table A

the most serious criminal offences over which the United Kingdom has assumed extra-territorial jurisdiction in respect of its nationals

Offence	Legislation	Other comments
Murder/manslaughter	Section 9 of the Offences against the Person Act 1861, as amended (Murder or Manslaughter abroad)	This Act provides the courts of England & Wales and Northern Ireland with extra-territorial jurisdiction over United Kingdom (UK) nationals who commit murder or manslaughter outside the United Kingdom.
Murder/culpable homicide	Section 11 of the Criminal Procedure (Scotland) Act	This Act provides the Courts of Scotland with extra-territorial jurisdiction over UK nationals who commit murder or culpable homicide outside the United Kingdom.
War crimes amounting to grave breaches of the Geneva Conventions	Section 1 of the Geneva Conventions Act 1957 The Geneva Convention (Amendment) Act 1995	The Geneva Conventions Act (as amended) provides the Courts of England & Wales, Scotland and Northern Ireland with extra-territorial jurisdiction over persons of any nationality, who, whether in or outside the United Kingdom, commit, aid, abet or procure the commission by another person of a grave breach of the Geneva Conventions, the First or Third Protocol.

<p>Genocide, crimes against humanity, war crimes</p>	<p>Sections 51, 52, 58, 59 of the International Criminal Court Act 2001</p>	<p>This Act provides the courts of England & Wales and Northern Ireland with extra-territorial jurisdiction over UK nationals, UK residents or persons subject to UK service jurisdiction in respect of genocide etc committed outside the United Kingdom, including aiding and abetting, procuring, inciting or attempting to commit such crimes.</p>
<p>Genocide, crimes against humanity, war crimes</p>	<p>International Criminal Court (Scotland) Act 2001 (See Sections 1 and 2, in particular)</p>	<p>This Act provides the courts of Scotland with extra-territorial jurisdiction over UK nationals or UK residents in respect of genocide etc committed outside the United Kingdom, including aiding and abetting, procuring, inciting or attempting to commit such crimes.</p>
<p>Hostage Taking</p>	<p>Section 1 of the Taking of Hostages Act 1982</p>	<p>This Act provides the courts of the United Kingdom with extra-territorial jurisdiction over persons of any nationality who commit the offence of hostage taking in the UK or outside it.</p>

<p>Torture by or on behalf of persons acting in an official capacity</p>	<p>Section 134 of the Criminal Justice Act 1988</p> <p><i>Criminalises torture by public officials or persons acting in an official capacity</i></p>	<p>This Act provides the courts of the United Kingdom with extra-territorial jurisdiction over persons of any nationality who commit the offence of torture in the United Kingdom or outside it.</p>
<p>Terrorism offences</p>	<p>Sections 59, 60, 61, 62, 63, 63A, 63B, 63C, 63D, 63E of the Terrorism Act 2000.</p> <p>Section 17 of the Terrorism Act 2006</p> <p>Section 28 of the Counter Terrorism Act 2008</p>	<p>These Acts provide the courts of the United Kingdom with extra-territorial jurisdiction in the United Kingdom in respect of various terrorism offences, committed wholly or partly outside the United Kingdom. Offences include acts committed by UK nationals and residents and many cover persons, irrespective of nationality.</p>
<p>Sexual offences committed against children under 18, England and Wales</p>	<p>Section 72 of the Sexual Offences Act 2003</p>	<p>This Act provides for extra-territorial jurisdiction in England and Wales in respect of acts done by UK nationals outside the UK, and non-UK nationals resident in the UK if the acts would constitute a sexual offence if done in England and Wales.</p>
<p>Sexual offences committed against children under 18, Scotland</p>	<p>Sexual Offences (Scotland) Act 2009</p>	<p>This Act provides for extra-territorial jurisdiction over UK nationals in respect of certain sexual offences committed outside the United Kingdom against children, in Scotland.</p>

<p>Sexual Offences committed against children under 18, Northern Ireland</p>	<p>Sexual Offences (Northern Ireland) Order 2008/1769</p>	<p>This Act provides for extra-territorial jurisdiction in Northern Ireland in respect of acts done by UK nationals outside the UK, and by non-UK nationals resident in Northern Ireland if the acts would constitute a sexual offence if done in Northern Ireland.</p>
<p>Piracy on the high seas</p>	<p>Common law offence defined by the Merchant Shipping and Maritime Security Act 1997 by reference to the international law of the sea – United Nations Convention on the Law of the Sea (UNCLOS) 1982 Article 101</p>	<p>Universal jurisdiction.</p>
<p>Trafficking, England and Wales</p>	<p>Section 2 <i>Modern Slavery Act</i> 2015</p>	<p>This provides for extra-territorial jurisdiction in England and Wales in respect of acts done by UK nationals outside the UK.</p>
<p>Trafficking, Northern Ireland</p>	<p>Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015</p>	<p>This provides for extra-territorial jurisdiction in Northern Ireland in respect of acts done by UK nationals outside the UK.</p>

Trafficking, Scotland	Human Trafficking and Exploitation (Scotland) Act 2015	This provides for extra-territorial jurisdiction in Scotland in respect of acts done by UK nationals outside the UK.
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Table B

United Kingdom legislation which provides for extra-territorial jurisdiction over certain categories of person for offences committed abroad

Category of person	Legislation	Other comments
Persons subject to UK service law, or a civilian subject to UK service discipline.	Section 42 of the Armed Forces Act 2006	This Act provides the courts of England & Wales with extra-territorial jurisdiction over persons subject to UK service law (which includes members of the UK armed forces) and civilians subject to UK service discipline in respect of acts done outside the United Kingdom which would constitute an offence under the law of England and Wales if it were done here.
Offences by crown employees	Section 31 of the Criminal Justice Act 1948	This Act provides for jurisdiction and procedure in respect of certain indictable offences committed overseas by British subjects employed under His Majesty's Government in the United Kingdom in the service of the Crown, when acting or purporting to act in the course of their employment.

Offences by crown employees

Section 11 of the Criminal Procedure (Scotland) Act 1995

This Act contains the same provision in relation to Scotland.

service law and Crown Servants acting or purporting to act in the course of their employment.

It should be noted that the United Kingdom has in some cases extended its extra-territorial jurisdiction to cover persons with a close connection with the United Kingdom other than its own nationals. For example, the International Criminal Court Act 2001 provides for jurisdiction over genocide, war crimes and crimes against humanity committed overseas by persons who are “resident” in the United Kingdom.

UK legislation providing for the immunity of UN officials and experts on mission

The United Kingdom is obliged under international law to accord relevant privileges and immunities to certain categories of official visitors and has duly legislated in order to give effect to its international obligations in domestic law.

The UK has given effect to the 1946 General Convention on the Privileges and Immunities of the UN in our domestic law through Section 10 of the International Organisations Act 1968 and the United Nations and International Court of Justice (Immunities and Privileges) Order 1974/1261 (“the Order”). The Order was made in accordance with Section 10 of the International Organisations Act 1968 and pursuant to powers under sections 1, 5 and 12(6) of the same. It confers privileges and immunities upon the United Nations, its officers and experts, and representatives of its members.

By virtue of Article 16 of the Order, all United Nations officers, except in so far as in any particular case any privilege or immunity is waived, shall enjoy immunity from suit and legal process in respect of things done or omitted to be done by them in their official capacity. By virtue of Article 17 of the same, except in so far as in any particular case any privilege or immunity is waived, United Nations experts on mission shall enjoy immunity from suit and legal process in respect of things done or omitted to be done by them in the course of the performance of their missions.

Should criminal or civil proceedings be brought before courts of the United Kingdom against a person who may be entitled to immunity from process, it is for the courts to decide at the outset of proceedings the extent, if any, of such immunity, having regard to all relevant considerations.